IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6035 OF 2005

Union of India through General Manager,
Central Railway Mumbai. ...Petitioner.
Vs.
Mr. Ananda Mahadeo Koli. ...Respondent.
....
Mr. T. J. Pandian for the Petitioner.
Mr. S.S. Karkera for the Respondent.
.....

CORAM : F.I. REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

October 3, 2005.

P.C.

The Respondent was chargesheeted for a misconduct and punishment was imposed. The revisional authority in exercise of the powers conferred under Rule 25 of the Railway Servants (Disciplinary and Appeal) Rules, 1968, issued a show cause notice as to why the penalty should not be enhanced. The basis for the issue of the notice reads as under :

> "The charges framed and subsequently proved against you are very serious. By your act, you have misused the facilities given by the Railway Administration for your own benefit. Considering this aspect, I am of the opinion

that the penalty imposed upon you is not adequate compared to gravity of your offence."

Based upon the said show cause notice and the reply filed, the revisional authority imposed punishment of reduction from the Grade of Rs.7450-11500 (RS) to the Grade of Rs.6500-10500 (RS) fixing his pay at Rs.6500/- for the period of three years with cumulative effect. It was this order which was the subject matter of the Original Application filed before the Central Administrative Tribunal. The Learned Tribunal in para 15 noted the contents of the show cause notice and observed that in so far as serious charges are concerned, no findings have been given either by the Enquiry Officer or the disciplinary authority that the charges are serious. It will not be possible for us to sustain the findings considering that the chargesheet was issued against the Petitioner for punishment for major misconduct. However, the Tribunal then observed that the second part of the show cause notice, namely, misusing the facilities given by the Railway Administration is not an article of charge. There is merit in the said finding recorded by the Tribunal inasmuch as the revisional authority could have exercised the jurisdiction in respect of the charge which was framed against

the Respondent herein. Thirdly, the Tribunal noted that the expression that the penalty imposed is not adequate and observed that those amounts to an opinion and no reason has been mentioned. If the revisional authority had come to the conclusion that the punishment which was not proportionate then it ought to have given reasons as to why the punishment was not proportionate and consequently as to why it seeks to exercise revisional powers. The Tribunal also noted in its own order, the earlier order of the Central Administrative Tribunal, in the case of Govind Lal Chopra and in these circumstances interfered with the punishment order.

It is true that normally the Tribunal ought not to interfere with the punishment imposed by the disciplinary authority or the revisional authority. In the instant case, the exercise of revision was nearly about 2.1/2 years of the order issued by the disciplinary authority which was on 10th March 1999. The show cause notice is dated 6th November 2001. There is material on record to show that the exercise of revisional authority is not suo motu by the revisional authority but pursuant to the detailed report submitted by the Vigilance Department of the Petitioners. The Learned Counsel

for the Petitioners, however, submits that the revisional authority has not merely depended on the said report, but has arrived at his own conclusion. That may be so, but the fact remains that it is only after the Vigilance Cell submitted the report did revisional authority choose to issue the show cause notice. In considering the enhancement of punishment, it is open to the revisional authority to have issued a show cause notice. In the instant case, however, the Tribunal has examined the matter and for reasons set out, which are discussed earlier, have chosen to interfere and to pass order in accordance with law. It cannot be said that the said order suffers from any error apparent on the record. For these reasons, no interference is called for. The Petition is dismissed.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)